

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,	:	CASE NO. 1:19-cr-00085
Plaintiff,	:	OPINION & ORDER
	:	[Resolving Docs. 58]
vs.	:	
RASHAWN D. WATSON,	:	
Defendant.	:	
	:	

JAMES S. GWIN, UNITED STATES DISTRICT COURT JUDGE:

Defendant Rashawn D. Watson requests a reduced sentence¹ under the compassionate release statute, 18 U.S.C. § 3582.² The Government opposes.³

For the following reasons, the Court **DENIES** Watson's motion for compassionate release.

I. Background

In May 2019, Watson pleaded guilty to three counts of possessing with intent to distribute a controlled substance (Counts 1-3), one count of felon in possession of a firearm (Count 4), and one count of possession of a firearm in furtherance of a drug trafficking crime (Count 5).⁴ In June 2019, this Court sentenced Watson to 130 months imprisonment for

¹ In the alternative, Watson asks the Court to recommend that the Bureau of Prisons transfer him to home confinement. The Court cannot order home confinement and declines Watson's request to make a recommendation to the Bureau of Prisons on his behalf. See [Johnson v. Williams, 4:20 CV 1325, 2020 WL 7324763, *1 \(N.D. Ohio Oct. 22, 2020\)](#) ("The BOP, however, still has the sole authority to decide whether home confinement under the CARES Act is appropriate.") (collecting cases).

² Docs. [58](#), [59](#), [66](#).

³ Doc. [65](#).

⁴ Docs. [29](#), [58](#), [65](#).

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Counts 1-4, and 60 months' imprisonment for Count 5. In addition, the Court sentenced Watson to nine years supervised release.⁵

II. Discussion

On September 1, 2020, Watson moved for compassionate release.⁶ Watson seeks a sentence reduction due to concerns about the COVID-19 pandemic. In addition, Watson asserts the Court mistakenly designated him a career criminal offender. He argues that if the Court had considered the proper Sentencing Guideline range—without the career offender enhancement—he would have received a lesser sentence.⁷

The Government opposes. It contends that Watson does not have health conditions associated with serious illness risk associate with COVID-19. Further, the Government argues that the § 3553 factors do not support early release.⁸

A. Exhaustion

The Court may modify a defendant's sentence upon a motion from the defendant if the defendant filed the motion thirty or more days after the defendant sent a compassionate release request to their warden.⁹

On April 8, 2020, Watson asked the FCI McKean warden for a sentence reduction.¹⁰ On July 6, 2020, Watson asked again.¹¹ Because Watson filed his motion with the Court

⁵ Doc. [42](#).

⁶ Doc. [58](#).

⁷ Doc. [59](#).

⁸ Doc. [65](#).

⁹ [18 U.S.C. § 3582\(c\)\(1\)\(A\)](#); see also [United States v. Alam](#), 960 F.3d 831, 834–35 (6th Cir. 2020).

¹⁰ Docs. [59-1](#), [59-2](#).

¹¹ Docs. [59-3](#), [59-4](#).

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more than thirty days after he sent his requests to the warden, Watson satisfies the statutory exhaustion requirement.

B. Eligibility

Generally, to grant compassionate release, a court must: (1) "find that extraordinary and compelling reasons warrant [a sentence] reduction,"¹² (2) "ensure that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission," and (3) "consider[] all relevant sentencing factors listed in 18 U.S.C. § 3553(a)."¹³

However, there are presently no applicable Sentencing Commission policy statements for inmate-filed compassionate release motions.¹⁴ Therefore, in cases, as here, where an inmate files a motion on their own behalf, the court "may skip step two."¹⁵

Watson has not established that any extraordinary and compelling reasons necessitate compassionate release.

Watson's COIVD-19 argument is unpersuasive. The presence of COVID-19 alone does not warrant a sentence reduction.¹⁶ And Watson has not shown that he has a medical condition that increases his risk for serious illness if he contracts COVID-19.¹⁷

¹² "[I]n the absence of an applicable policy statement for inmate-filed compassionate-release motions, district courts have discretion to define 'extraordinary and compelling' on their own initiative." [U.S. v. Elias](#), – F.3d —, No. 20-3654, 2021 WL 50169, *2 (6th Cir. Jan. 6, 2021).

¹³ *Id.* (citing [U.S. v. Jones](#), 980 F.3d 1098, 1111 (6th Cir. 2020) (citing 18 U.S.C. § 3582(c)(1)(A))) (internal quotation marks omitted).

¹⁴ See [Elias](#), 2021 WL 50169 at *2 ("[U.S.S.G.] § 1B1.13 is not an applicable policy statement for compassionate-release motions brought directly by inmates, and so district courts need not consider it when ruling on those motions."); [Jones](#), 980 F.3d at 1108 (stating that "[t]he Commission's policy statement on compassionate release resides in U.S.S.G. § 1B1.13" but explaining that "§ 1B1.13 does not 'appl[y]' to cases where an imprisoned person files a motion for compassionate release.").

¹⁵ [Jones](#), 980 F.3d at 1111.

¹⁶ Watson concedes this point. Doc [66](#) at 7.

¹⁷ In Watson's request to the FCI McKean warden, he states that he has an autoimmune condition. See Doc. [59-1](#). He also references an autoimmune condition in his reply brief. Watson's medical records do not support this claim. See Doc. [65-5](#).

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Watson's career criminal offender argument is similarly unavailing. Watson states that the Court erroneously sentenced him as a career criminal offender, and, therefore, relied on the wrong Sentencing Guideline range.¹⁸ However, the Court sentenced Watson well below the Guideline range he argues was incorrect. Indeed, Watson states his Guideline range without the career-offender enhancement would be 110 to 137 months.¹⁹ And the Court sentenced Watson to 130 months.²⁰ Even if the Court had not designated Watson a career offender, the Court is not persuaded that it would have imposed a different sentence.

III. Conclusion

For the foregoing reasons, the Court **DENIES** without prejudice Watson's request for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A)(i).

IT IS SO ORDERED.

Dated: January 15, 2021

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

¹⁸ Doc. [59](#).

¹⁹ *Id.*

²⁰ This does not include the mandatory 60-month sentence for Count 5.